1 Role of the Law Society of Upper Canada

LEARNING OUTCOMES

After reading this chapter, you should be able to:

- describe the Law Society of Upper Canada's rules of conduct for lawyers and paralegals
- explain the requirements in bylaw 9 of the Law Society dealing with financial transactions and records
- define various forms of business organization
- describe the ethical and professional responsibilities of paralegals as they pertain to maintenance of books and records in the management of a legal services firm

The Law Society of Upper Canada (LSUC) regulates the Ontario legal profession to ensure that legal professionals conduct themselves in a competent and ethical manner pursuant to the *Law Society Act*[1] and regulations made under the Act. **Licensees**—paralegals and lawyers who are licensed to practise by the Law Society—must meet the professional and ethical obligations imposed by the Law Society. Infractions can result in disciplinary action, including but not limited to suspension of the licensee's privileges.

Requirement for Books and Records in Legal Firms

The LSUC requires licensees to keep books and records that reflect the financial activities carried out by them. Licensees have the added duty to maintain accurate records of all their financial activities because of the duty owed by them to their clients.

The LSUC's record-keeping requirements are set out in part V of its bylaw 9.[2] Every licensee is required to maintain financial records to track all money and other property received and disbursed in connection with the licensee's professional business. The goal of this course is to assist paralegals in understanding the type of financial records required to meet their obligations and to learn how to keep the necessary records. The focus is on a small practice; examples of transactions a licensee is likely to encounter will be used for demonstration purposes. Law clerks who perform their duties under the supervision of a lawyer should also be aware of record-keeping requirements to assist the lawyer or law firm in meeting the LSUC's obligations.

A paralegal who is not confident of being able to do his or her own accounting will want to hire a **bookkeeper** to maintain the firm's books and records. Bookkeepers record day-to-day transactions in the appropriate journals. Samples of these tasks include entering bills from vendors, paying bills, processing payroll data, preparing invoices to clients, and recording receipts and payments from clients. The bookkeeper records entries in the proper journals and summarizes the entries using general and trust ledgers. A bookkeeper will usually bring the books to the trial balance stage of the accounting process.

Chartered professional **accountants**, who have a university degree, take over where the bookkeeper leaves off. They prepare adjusting entries to correct the balances in accounts to reflect items such as prepaid expenses and depreciation. Once the adjusting entries are completed, the accountant prepares the firm's financial statements, which include the income statement, statement of owner's equity, and balance sheet. These statements are required for income tax purposes, and the accountant is usually asked to complete the tax returns for the firm. An accountant will ensure that the firm's financial records reflect professional standards.

1 *Law Society Act*, RSO 1990, c L.8.

2 Made under s 62(0.1), para 6 of the *Law Society Act*, *ibid*.

Why do you need to learn **bookkeeping** if bookkeepers and accountants are able to do the job for you? Ultimately, you are the one responsible to ensure that the persons you hire maintain the records in an acceptable manner. This course will introduce you to the essentials of legal accounting and explain why and how you need to keep books and records that conform to the requirements of the Law Society of Upper Canada.

Other reasons to know basic bookkeeping and accounting principles:

- As a business owner, it is in your best interest to be able to analyze financial information for the purpose of making financial decisions in your own practice.
- As a paralegal, you might have to understand a client's financial records in the course of litigation when financial statements are relevant to the case.
- As a community volunteer, you may become a member of a board of directors and be presented with financial statements for review and approval by the board.

The following organizations require that you maintain proper records:

- The Canada Revenue Agency (CRA) requires the filing of income tax, payroll, and GST/HST remittances.
- The Law Society of Upper Canada requires the filing of annual reports and performs audits to ensure that records are correct and, in particular, that all trust funds are properly accounted for.
- The **Law Foundation of Ontario** requires the filing of an annual report.

Forms of Business Organization in Legal Services Firms

Bylaw 7 of the LSUC sets out several ways lawyers and paralegals in Ontario may carry on the practice of law and provision of legal services, respectively. The form of business organization used is often determined by income tax implications as well as bookkeeping issues.

Basic forms of business organization include sole proprietorships, partnerships, limited liability partnerships, multi-discipline practices or affiliations, and professional corporations. The various modes of practice are set out in more detail on the LSUC's website[3] and should be referred to as needed.

Sole Proprietorship

A **sole proprietorship** is a business carried on by an individual who is the owner. The sole proprietor usually makes all management decisions and is personally responsible for all the debts of the business. Many small firms are sole proprietorships. The owner pays personal income taxes on the profit made by the firm. When net profits reach higher levels, there may be tax advantages in switching to a corporate form of ownership.

Partnership

A **partnership** is a business carried on by one or more individuals as owners. Two or more persons may find it worthwhile to combine their talents and money to form a partnership. They may own the business in equal or unequal shares, and their shares of the profits or losses in the business are usually proportionate to their capital investment in the business. All the partners

3 Law Society of Upper Canada, *Business Structures*, online: <http://www.lsuc.on.ca/For-Lawyers/Manage-Your-Practice/Practice-Arrangements/Business-Structures>.

are equally liable for all the debts of the business. General partnerships have unlimited personal liability for business debts. The net income or loss of the business is allocated to the members of the partnership, who then pay personal income taxes on their share of the profits.

Limited Liability Partnership

A **limited liability partnership** is one in which partners have limited personal liability for the debts of the business, and no partner is responsible or liable for other partners' misconduct or negligence. The name of the limited liability partnership must be registered under the *Business Names Act*,[4] and the name must include the words "limited liability partnership" or "société à responsabilité limitée," or the abbreviations "LLP," "L.L.P.," or "s.r.l." as the last words or letters of the firm's name.

Multi-Discipline Practice/Affiliation

In a **multi-discipline practice (MDP)** or **affiliation**, lawyers and licensed paralegals work with other professionals—such as accountants, tax consultants, trademark and patent agents, or others—who support or supplement their practice of law or provision of legal services. When a licensee and another professional enter into a formal partnership agreement, it is considered a multi-discipline partnership, which must be approved by the Law Society by application. Licensees are responsible for the actions of professional partners and must maintain professional liability insurance for all professional partners.

Professional Corporation

In a **professional corporation**, lawyers or licensed paralegals carry on the practice of law or the provision of legal services through an incorporated entity. Corporations operate under a government charter and are owned by shareholders. All the shareholders of a professional corporation must be lawyers or licensed paralegals who are entitled to practise law in Ontario. Incorporation does not affect the professional liability of the shareholders, and they are jointly and severally liable with the corporation for all professional liability claims against the company.

Lawyers and licensed paralegals may not practise law or provide legal services through a professional corporation until the company has received a certificate of authorization from the LSUC. Certain tax advantages can be gained by incorporating because the corporation is taxed separately on its profits at corporate taxation rates, which are lower than the personal tax rate after a certain level of income is achieved.

TAX TIP

Taxation Legislation

Canada first collected federal income tax in 1917, at which time it was supposed to be a temporary tax to fund the First World War. This temporary measure evolved into the Canada Revenue Agency in 1927 and has become the largest form of income available to the Canadian government. The CRA administers the tax laws for the government of Canada, including the administration and enforcement of the *Income Tax Act*,[5] and for most provinces and territories. Income tax is collected from individuals and businesses by the CRA for the federal government and the provinces and territories. The Canadian tax system is also based

4 *Business Names Act*, RSO 1990, c B.17.

5 *Income Tax Act*, RSC 1985, c 1 (5th Supp), as amended.

on self-assessment, which places the responsibility on Canadian residents to ensure they have paid their taxes according to the requirements of the *Income Tax Act*.

Unincorporated Practices

Sole Proprietorships

The income or loss of a sole proprietorship must be included on the personal tax return of the sole proprietor for the year in which the income was earned. The net profit is taxed at the same rates that apply to individuals. These rates are progressive and increase with income. Sole proprietors are also required to make Canada Pension Plan (CPP) payments on self-employed earnings when their personal income tax return is filed each year. Any person claiming an income tax refund, an HST credit, or the Canada child tax benefit must file a return. Provincial tax credits may also be available. A sole proprietor may be required by the CRA to pay income tax by installments. Financial statements for the licensee's practice must be included with the personal tax return.

Partnerships

The income or loss of the business carried on in partnership is determined at the partnership level and then allocated to the partners in accordance with their share, usually based on the terms of a partnership agreement. A partnership by itself does not pay income tax on its operating results and does not file an annual income tax return. Instead, each partner includes a share of the partnership income (or loss) on his or her personal tax return. The share of the income earned is taxed whether or not it has actually been received from the partnership's capital account. Each partner must file a copy of the financial statements of the partnership with his or her return. The partnership may also be required to register for and collect GST/HST.

Expenditures, capital cost allowance, and other deductions are subtracted from the income of the partnership to determine whether the business has a net income or loss. The resulting income or loss is divided among the partners, prorated to each partner's contribution or as otherwise stipulated in the partnership agreement. Each partner's share of the income or loss is then included in the calculation of that partner's individual income from all sources for tax purposes.

If the partner is an individual, he or she is taxed at the rate applicable to individuals under the *Income Tax Act*, as is a sole proprietor. Like the sole proprietor, a partner must aggregate his or her share of net income or loss with income or losses from all other sources.

Incorporated Practices

A professional corporation is a separate legal entity that is separately taxed on its profits at corporate taxation rates and can select its fiscal year-end for tax planning purposes.

A corporation may have some of the following features:

- It has a perpetual existence.
- It can generally raise larger amounts of capital more easily than a sole proprietorship or partnership.
- The shareholders cannot personally claim any loss the corporation sustains.

When forming a corporation, the owners transfer money, property, or services to the corporation in exchange for shares. The owners are referred to as shareholders. Shares can be bought and sold without affecting the corporation's existence. A corporation continues to exist unless it winds up, amalgamates, or surrenders its charter for reasons such as bankruptcy. Because a corporation has a separate legal existence, it must pay tax on its income, and therefore must file its own income tax return. The corporation may also be required to register for and collect GST/HST.

A corporation must file a corporation income tax return (T2) within six months of the end of every tax year, even if it does not owe taxes. It also has to attach complete financial statements and the necessary schedules to the T2 return. A corporation usually pays its taxes in monthly or quarterly installments.

A licensee who incorporates will receive a salary or take dividends from the corporation as payment for his or her services. These payments will be included on the licensee's individual tax return. An accountant should be consulted to determine whether there is an advantage to incorporating to take advantage of the lower corporate tax rates.

Insurance Requirements

Licensees who provide legal services to the public must carry professional liability insurance in accordance with the Law Society's bylaw 6, part II, section 12. A policy limit for each

single claim of not less than $1 million and an aggregate policy limit for all claims of not less than $2 million per year are required. In the case of a limited liability partnership, coverage must be maintained for each partner in the amount required for individual licensees. Some exemptions are allowed, such as when a paralegal is working under the supervision of a lawyer who has professional liability insurance through the LSUC and the paralegal is covered under the lawyer's policy. Licensees must provide written proof of compliance with their insurance requirements before they begin providing legal services and annually thereafter.

Importance of Maintaining Proper Records

In addition to keeping books and records that reflect their financial activities, lawyers and paralegals have an added obligation to maintain accurate records because they hold funds in trust for their clients. The Law Society regulates the Ontario legal profession to ensure that paralegals and lawyers conduct themselves in a competent and ethical manner pursuant to the *Law Society Act* and regulations made under the Act. The LSUC has the role of protecting the public. One way the Law Society fulfills this responsibility is by auditing the records kept by law firms. Licensees who fail to meet the professional and ethical obligations imposed by the LSUC are subject to its complaints process, which can result in disciplinary action including suspension of their privileges.

Failure to maintain proper records can result in errors and an inability to meet financial obligations as they come due. For example:

- Failure to record accounts payable as bills are received results in an overstatement of your income and may result in an inability to pay bills when they are due.
- Failure to stay on top of accounts receivable may result in insufficient funds in your general bank account, resulting in an inability to pay your operating expenses.
- Failure to track trust receipts and disbursements in the correct client ledger could result in errors, with a trust account getting overdrawn for a particular client.
- Failure to maintain trust records can result in an inability to meet obligations incurred on a client's behalf and to account to clients for any funds received on their behalf.
- Failure to track income and expenses and properly report to the Canada Revenue Agency may result in assessments and/or audits, with severe penalties and interest being charged if taxes were not properly remitted.
- Inability to know where the firm stands financially impairs good management decision-making regarding day-to-day operations, expansion, addition of staff, and other such matters.
- Failure to maintain financial statements may result in lenders refusing your applications for loans or lines of credit because lenders require financial statements in order to assess interest rates imposed on loans and qualification for loans.
- The LSUC conducts regular audits of licensees. Failure to maintain up-to-date trust records can result in suspension or other action by the Law Society.

Retainers

A **retainer** is an agreement between a client and a legal services provider for the engagement of legal services. The form of retainer can vary and be customized for each situation. Because clients can believe that they have retained the legal services provider based on an oral conversation, it is important to observe client identification protocols and to document any conversation in writing.

It is a good practice to get monetary retainers from clients to ensure that you will not have difficulty getting paid once work has started or a task is completed. The cash flow in an office is important, and having to worry about paying bills can interfere with your ability to focus on providing excellent service to clients.

Firms usually require that clients provide a **monetary retainer** when the paralegal–client relationship is entered into. This is usually obtained when the client signs a retainer agreement, with the firm setting out the scope of the work to be performed and the hourly rate that will be charged by the paralegal primarily responsible for the file, as well as the rate charged by other persons who will work on it. The retainer agreement should also set out the firm's billing policies.

The money received from the client must be deposited into the firm's mixed trust account (described below) by the end of the next banking day after funds are received. Money includes by definition cash, cheques, drafts, credit card sales slips, post office orders, and express and bank money orders.

A **general monetary retainer**, which is described in section 8(2)1 of the LSUC's bylaw 9, does not need to be deposited into the trust account. This is money received for which the paralegal is not required either to account to the client or to provide services. A general retainer should be evidenced by a written agreement with the client. As an example, it might be used when a paralegal is asked to do all collections for a client at a fixed monthly rate and the firm agrees to do all the collections and will be paid whether or not the client submits any claims in a particular period. This type of retainer is not common in small practices and is carefully scrutinized by the Law Society.

Bank Accounts in a Legal Services Firm

At the very least, most law firms have one general bank account and one mixed trust account. It is important to understand which transactions require use of the trust bank account and which the use of the general bank account. You are not allowed to mix trust funds, which are funds that belong to the client, with general firm funds, which are funds that belong to the firm.

General Bank Account

Just as individuals have a bank account that they use for their day-to-day deposits and cheque writing, a business must have a **general bank account** for making deposits and for payment of bills. The general bank account will be opened in the name of the firm. If the firm is a sole proprietorship, the bank account will be in the name of the owner. Corporations will open such accounts in the name of the corporation. The types of funds that will be deposited into the general bank account include

- funds that belong to the firm and not to clients,
- funds invested into the firm by the owner,
- funds received by the firm for payment on bills sent to the client, and
- other receipts, such as interest income and miscellaneous income.

Regardless of the accounting system being used, care must be taken to ensure that the correct bank account is used when making deposits and writing cheques. Firms usually use cheques of a different colour for their general and trust bank accounts so there is a visual cue for the person writing a cheque.

Mixed or Pooled Trust Bank Account

A **mixed** or **pooled trust bank account** is a bank account into which money received from clients for certain purposes is deposited. This account is called "mixed" or "pooled" because the firm opens one bank account into which money for many clients will be deposited. The funds must be deposited into the mixed trust account because the money does not belong to the firm. It belongs to the client and is to be used for specific purposes (for example, to pay court fees on behalf of the client or to be applied to a bill sent to the client). How will you know what amount belongs to which client? A separate client ledger must be kept for each client, so you always know how much money you have in the trust account for each one.

EXAMPLE

The table in Figure 1.1 illustrates a list of funds in the trust account that are pooled. Why a record is required for the amount held for each client is explained below.

Justin Case is a paralegal who has three clients. He has received a retainer from each client and has made payments out of the mixed trust account for some clients. The bank balance for the mixed trust account is $5,950. Justin needs to know that he has $250 left in trust for Client A, $700 for Client B, and $5,000 for Client C. The best way to track this information is to have a separate client trust ledger sheet for each individual client that shows all the transactions for each client with a running balance at all times.[6]

If Justin did not have proper records and wrote another cheque in the amount of $300 from the trust account to pay for a disbursement on behalf of Client A, the trust ledger account for Client A would be overdrawn by $50 ($250 less $300). However, the cheque would still go through the bank because there was $5,950 in the pooled account before the $300 cheque was written. Errors like this must be reported to the Law Society when submitting the annual report with an explanation as to why the error occurred.

The financial records required to be maintained for trust accounts must be entered in the account journal and **posted** in each client's ledger so as to be current at all times.

The LSUC's *Rules of Professional Conduct*[7] dictate that trust accounts are to be used only for clients' money. If you do not receive retainers from clients, you may not need to open a trust account. Trust accounts can never be used for the personal or office use of the business owner.

Justin knew he would have to send a cheque to the CRA every quarter to remit the HST he collected. So he deposited money in the trust account to cover the potential HST he would have to pay. However, LSUC rules dictate that this action is not allowed for the purpose of remitting HST at the end of each quarter. HST funds must be accumulated in the firm's general bank account.

Client	Receipts	Payments	Balance
Client A	300	50	250
Client B	800	100	700
Client C	5,000	0	5,000
Totals	6,100	150	5,950

FIGURE 1.1 Summary of clients and balance held in trust

Overdraft in Trust Account

It is a good practice to place a hold on trust funds received from clients (unless paid in cash, money order, or other certified instrument) to make sure the funds clear the client's bank

6 Bylaw 9, s 22(1).

7 Law Society of Upper Canada, *Rules of Professional Conduct*, online: <http://www.lsuc.on.ca/lawyer-conduct-rules>.

account. You should confirm with your financial institution how many days it takes a cheque to clear. If a cheque from a client is returned by the bank for insufficient funds (NSF), and the licensee has written a cheque against that amount, the trust ledger for that client will be overdrawn. In addition, bank charges may be taken out of the trust account because of the NSF transaction. You should direct your bank to charge any service fees against the trust account to the firm's general account instead.

Paralegals are personally responsible to ensure that any overdraft in a client's trust account is corrected as soon as an error is discovered. This can be done by having the client bring in funds to deposit into the account, or by the paralegal personally putting funds into the trust bank account to make up for the deficiency.

With experience, you will develop an instinct for knowing which funds should go into the mixed trust account and which funds should go into the general bank account. If you are unsure, refer to bylaw 9 to determine whether or not the funds belong in the trust account. The table in Figure 1.2 shows which bank account must be used for different types of deposits.

Mixed Trust Account	General Account
Funds that must be deposited to the trust account:	Funds that must be deposited to the general account:
• money received on behalf of the client • money received for future disbursements • money received for future or unbilled legal services • an overpayment of billed services—the excess payment must be either returned to the client or held in the trust account if the client instructs you to do so	• money paid on account of a bill previously sent to the client • reimbursement for proper expenses paid on behalf of the client • lawyer/paralegal's or firm's money • general money retainer

FIGURE 1.2 Accounts for depositing funds

Separate Interest-Bearing Trust Account

Another type of trust account can be set up to hold funds for only one client. This may be done on the client's written instructions when a large amount is to be held in trust for an extended period of time. For example, if a client deposits $20,000 with a firm to hold until a case settles, and it is anticipated that the case may go on for an extended period, the client may want the interest on the account to accrue to herself. If a client wants interest on the trust funds that you hold for her, you must obtain her written instructions to deposit such funds into a **separate interest-bearing trust account**—for example, a GIC, term deposit, or passbook account—in your firm's name in trust for that client.[8]

Opening a separate interest-bearing account for a client requires additional paperwork and bookkeeping for the paralegal and is not usually done unless the return on investment is significant. Bank charges on this account would be charged to the account and noted as a disbursement to the client.

Separate interest-bearing trust accounts must be reconciled and included in the monthly trust comparison.[9] If a client instructs you to put his funds in an interest-bearing account, you may require some additional information from him, such as his social insurance number or corporate number, if applicable, as well as how the interest is to be allocated for income tax purposes. This is especially important when the funds being held are in dispute.

8 Bylaw 9, s 8(1).

9 Bylaw 9, s 18(8).

Financial Institutions for Mixed Trust Accounts

The following institutions are approved for opening a mixed trust account for all client funds, or a separate account for one client:

- Chartered bank
- Provincial savings office
- Credit union
- A league to which the *Credit Unions and Caisses Populaires Act, 1994*[10] applies
- Registered trust corporation

The institution in which the account is opened must have an agreement with the Law Foundation of Ontario for the payment of interest on mixed trust accounts. The institution must also provide monthly bank statements and the original or copies of the front and back of returned cheques, including certified cheques. Any time a mixed trust account is opened, the Law Foundation of Ontario must be notified by sending a letter to the Foundation (Form 2: Report on Opening a Mixed Trust Account, available on the Law Foundation of Ontario's website).

TAX TIP

Registering for GST/HST

If you are just starting a business, you will probably be a **small supplier**, exempt from collecting GST/HST. You are deemed to be a small supplier if your total annual revenues from taxable supplies (before expenses) from all of your businesses are $30,000 or less. Once your annual revenues exceed the $30,000 threshold, you must register and start collecting GST/HST.

You can register voluntarily before you have reached the $30,000 threshold, and may want to do so in order to recover the GST/HST you pay when starting up your business. Once you have registered, you will be required to charge, collect, and remit GST/HST on all invoices sent to clients and to file returns. You have to stay registered for at least one year before you can ask to cancel your registration. If you are a small business and choose not to register voluntarily, you cannot collect GST/HST from your clients and cannot claim back the income tax credits you pay on your business purchases.

Obtaining a Business Number

Before you can register for GST/HST, you will need to obtain a **business number (BN)** from the Canada Revenue Agency if you do not already have one. You can register for a business number online at the CRA website. This number conveniently identifies you to the government for all business purposes, including remittances of GST/HST, corporate income tax remittances, and payroll remittances.

Informing Your Clients

You must let your clients know if GST/HST is being charged on your fees. The invoice sent to the client should show the total amount charged for fees and disbursements and the rate and amount charged for GST/HST. Your GST/HST registration number must also appear on the invoice. The amount collected from clients will be recorded as GST/HST payable in your journals and ledgers.

Interest on Trust Accounts

Section 57 of the *Law Society Act* states that interest earned on a mixed trust account must be remitted to the Law Foundation of Ontario by the financial institution in which the account is located.[11] This is done by signing a letter of direction regarding interest on a mixed trust

10 *Credit Unions and Caisses Populaires Act, 1994*, SO 1994, c 11.

11 *Law Society Act*, *supra* note 1, s 57(1).

account, which directs the financial institution to forward interest on the account to the Law Foundation (see Figure 1.3).

It is your responsibility to ensure that the financial institution where you wish to open a mixed trust account pays interest at a rate approved by the trustees of the Law Foundation. Most financial institutions have an agreement with the Law Foundation and are accustomed to remitting the interest as required. The Law Foundation uses these funds to carry out its mandate, which is to promote access to justice.

An annual report must be sent to the Law Society of Upper Canada and to the Law Foundation of Ontario by March 31 each year.

FIGURE 1.3 Letter of direction

To: The Manager

Name of Bank: [Name of chartered bank, provincial savings office, registered trust company, credit union, or caisse populaire]

Branch: ______________________________

Address: ______________________________

Re: The Law Foundation of Ontario and Account No.

The above account is in: ______ my name

______ the name of the firm with which I am associated

In accordance with Section 57 of the *Law Society Act*, I direct you, until further notice, to compute the amount earned by applying to the balance in the above account the rate of interest approved from time to time by the Trustees of The Law Foundation of Ontario. Please pay into an account held in your main office in Ontario in the name of The Law Foundation of Ontario amounts so calculated and give written notice to me at the address shown on the above account and to The Law Foundation of Ontario, 20 Queen Street West, Suite 3002, Box #19, Toronto, Ontario, M5H 3R3, when each such payment is made. This notice should show, as applicable as per the terms of the interest agreement between the LFO and your financial institution, the amount of the payment, the amounts of the daily/monthly balances, and the rates of interest used in computing the payment.

Dated: the day of ______, ______________, 20______

Signature

Firm Name: ______________________________

Address: ______________________________

Source: Law Foundation of Ontario. Used with permission.

CHAPTER SUMMARY

Whether you decide on a career as a paralegal working alone or in association with other licensees, you need to have an understanding of record-keeping. Although you may not be directly involved in preparing bookkeeping entries and financial statements, you will be accountable to clients and must protect their interests. It is your responsibility to ensure that the firm you work with acts ethically and with integrity. Even when working in association with other paralegals, a licensee often maintains his or her own trust account and is required to account for funds received in trust.

You will be required to submit annual reports to the Law Society of Upper Canada, the Law Foundation of Ontario, and the Canada Revenue Agency. Having proper systems in place makes it easier to comply with all these obligations.

KEY TERMS

accountants, 2
bookkeeper, 2
bookkeeping, 3
business number (BN), 10
general bank account, 7
general monetary retainer, 7
Law Foundation of Ontario, 3
licensees, 2
limited liability partnership, 4
mixed or pooled trust bank account, 8
monetary retainer, 7
multi-discipline practice (MDP) or affiliation, 4
partnership, 3
posted, 8
professional corporation, 4
retainer, 6
separate interest-bearing trust account, 9
small supplier, 10
sole proprietorship, 3

FURTHER READING

Law Foundation of Ontario, "Reporting Mixed Trust Accounts," online: <http://www.lawfoundation.on.ca/our-revenue-sources/interest-on-mixed-trust-accounts>.

Law Society of Upper Canada, *The Bookkeeping Guide for Paralegals* (Toronto: LSUC, February 2014), online: <http://www.lsuc.on.ca/uploadedFiles/PDC/Practice_Review/Paralegal%20Bookkeeping%20Guide%20-%20February%202014.pdf>.

PUT IT INTO PRACTICE

Case Example: LSUC Rules

Ann Litigate is currently operating her legal services firm under the business name "Ann Litigate Paralegal Services." If Ann is interested in transitioning her legal services practice from a sole proprietorship to a corporation, what steps will she need to take? What are the advantages and disadvantages of Ann's establishing her legal services practice as a corporation? Discuss.

REVIEW QUESTIONS

True or False

_____ 1. A separate interest-bearing trust account should be opened for each client.

_____ 2. A general monetary retainer does not need to be deposited into the trust account.

_____ 3. It is a mandatory requirement for a legal professional (e.g., a lawyer or paralegal) to open and maintain a trust account.

_____ 4. Lawyers and paralegals may operate a legal practice with unlicensed professionals who provide other non-legal services.

_____ 5. Bylaw 9 of the Law Society of Upper Canada deals with the form of business organization.

_____ 6. Income taxes payable to the Canada Revenue Agency (CRA) in a partnership are paid by the partnership itself.

_____ 7. Understanding basic bookkeeping and accounting principles is useful only for the legal professional's reporting requirements to the Law Society.

_____ 8. Moneys received from a client for services not yet rendered should be deposited into the trust bank account.

_____ 9. A cheque received from a supplier as a refund for goods returned would be deposited in trust.

Fill in the Blanks

1. Refer to *Law Society of Upper Canada v Sam*, 2014 ONLSTH 140, and then fill in the blanks in the following quotation from the case: "[T]he Respondent ... b) failed to immediately deposit those funds into a trust account, contrary to By-Law 9, section __________ , or alternatively, contrary to By-Law 9, section __________ ."

2. Refer to bylaw 9 of the LSUC and fill in the blanks: Section __________ of bylaw 9 requires licensees to maintain financial records to record all money and other property __________ and __________ in connection with the licensee's professional business and, at a minimum, the __________ described in sections __________ to __________ .

3. A retainer is considered a __________ retainer when it is deposited in a trust account and when there is an agreement between the paralegal/lawyer and the client regarding legal services.

Short Answer

Give a full answer for each question.

1. What is the difference between the role played by a bookkeeper and that played by an accountant?
2. What business structure is most likely to be used by a paralegal opening an office who plans to work from home?
3. Assume a firm has two bank accounts—a general bank account and a mixed trust account. Indicate whether the following transactions would involve a deposit or cheque, and the bank account that would be used.

Transaction	*General Bank Account*	*Trust Bank Account*
Paralegal pays rent for the month	(General) Cheque	
Paralegal receives a retainer in the amount of $1,000 from a new client, Jane Phillips		
Paralegal invests $5,000 into the firm		
Paralegal pays court filing fees of $150 on the Jane Phillips file		
Paralegal pays telephone bill		
Paralegal withdraws money for personal expenses		
Paralegal prepares an invoice on the Jane Phillips file and writes a cheque in payment of invoice		

4. What happens to interest earned on a mixed trust account?
5. In what circumstances should a paralegal maintain a separate interest-bearing trust for a client?
6. Look up the Law Foundation of Ontario online. What is its mandate?